

EXECUTIVE SUMMARY

Since its creation in 1996, the Department of Permitting Services (DPS) has made substantial progress toward meeting the goals identified by the County Executive and County Council for the new Department. The major goals were to:

- Streamline the permitting process to improve productivity;
- Provide faster, friendlier, more consistent customer service;
- Provide substantially fee-supported operations;
- Provide consistent, predictable code enforcement activities; and
- Maintain and ensure compliance with the County's regulatory standards.

There is ample good news to report in terms of positive changes made by DPS. Three years of reliable survey data show that permit applicants are generally favorable about their overall experiences with DPS. The processing time for many permits has been reduced. Permit applicants also give positive ratings to DPS employees on attributes such as friendliness, professionalism, and teamwork.

On the fiscal front, the Department has achieved the goal of becoming a fee-supported operation. Today, the DPS Enterprise Fund is in sound financial shape, and DPS has already made substantial repayments to the General Fund. However, it should not be missed that some permit applicants identify increased fees as an area of concern.

The major strategies identified as critical to accomplishing the goals of the Department (i.e., office space renovation, improved technology, staff reorganization) are now mostly in place. In addition, interviews with County staff evidence there are many ways that DPS staff have forged constructive working relationships with other departments.

The less positive news to report concerns: service delivery and coordination problems in several key DPS functions; residual negative attitudes held by some DPS employees about their work environment; and the absence of a strategic plan. In addition, because of delays in implementation, it is too soon to draw conclusions about the impact of the office space renovation, staffing reorganization, and technology improvements on DPS' goals such as productivity, customer service, and consistency.

OLO makes action recommendations to the Council concerning: the DPS sunset clause; how to accomplish service delivery improvements in selected DPS functions; and how to approach ongoing Council monitoring of DPS' activities and performance. In sum:

OLO recommends the Council repeal the DPS sunset provision. OLO recommends this action for multiple reasons. The rationale for establishing a "one-stop shop" for County permitting functions continues to exist. DPS has made substantial progress toward meeting the goals identified by the Executive and the Council for the new department. Removing the sunset provision may also improve service delivery because the continued uncertainty created by the sunset clause has taken a negative toll on employee morale.

CHAPTER 1: AUTHORITY, SCOPE, AND ORGANIZATION

1.1 Origin, Scope, and Organization of Report

The purpose of this Office of Legislative Oversight (OLO) report is to provide data and analysis relevant to the Council's decision whether to extend, repeal, or otherwise amend the July 1, 2002 legislative sunset provision attached to the Department of Permitting Services.

The Department of Permitting Services was established by law in 1996. On July 2, 1996, the County Council approved Emergency Bill 20-96 to create a new Department of Permitting Services (DPS). The County Executive proposed establishing DPS as the "one-stop shop" for County functions related to regulating construction and land development activities.

Emergency Bill 20-96 created the new Department of Permitting Services by consolidating and restructuring programs from four existing departments.¹ The Council and County Executive concurred that the goals of the new Department were to:

- Streamline the permitting process to improve productivity;
- Provide faster, friendlier, more consistent service;
- Provide substantially fee-supported operations;
- Provide consistent, predictable code enforcement activities; and
- Maintain and ensure compliance with the County's regulatory standards.

The County Executive proposed a multi-year strategy to facilitate the success of the new Department. Key components of the Executive's plans were to reorganize staff, renovate office space, upgrade the computer system, and establish a DPS-Enterprise Fund.

By law, the Department sunsets on July 1, 2002. As enacted by the Council, the legislation to establish the Department of Permitting Services included the following sunset provision for the new department:

Sunset. On July 1, 1998, any function transferred by this Act to the Department of Permitting Services reverts to the Department that administered that function before this Act took effect. (Emergency Bill 20-96; codified in County Code Section 2-42B)

In addition, the Council asked the Office of Legislative Oversight (OLO) to evaluate implementation of the reorganization before the sunset date.

¹ See page 5 for a list of programs transferred to the new DPS.

During the past five years, the Council has twice extended (by law) the DPS sunset date. In June 1998, the Council extended the sunset date to July 1, 2001. In June 2001, the Council further extended the sunset date to July 1, 2002. During this same time period, the Council has reviewed a number of different reports on various aspects of the DPS reorganization.

Scope and Organization. The purpose of this final OLO report on the Department of Permitting Services is to provide data and analysis relevant to the Council's decision whether to extend, repeal, or otherwise amend the July 1, 2002 legislative sunset provision attached to DPS.² Toward this end, it is organized as follows:

- Chapter 2, **Legislative History**, summarizes the issues discussed by the Council at the time DPS was established.
- Chapter 3, **Status Reports**, reviews the status of the strategies approved to facilitate success of the new Department, i.e. the staffing reorganization, establishment of the Enterprise Fund, office space renovation, and automation project.
- Chapter 4, **Customer and Employee Perceptions**, reports customer and employee perceptions of DPS' performance. Specifically, the chapter examines survey research data, observations of focus groups, and feedback from additional meetings with members of the community.
- Chapter 5, **Workload and Productivity Trends**, reviews the workload and productivity trends of DPS.
- Chapter 6, **Coordination**, assesses the linkages established between DPS and the following departments/agencies: the Department of Environmental Protection, Maryland Department of the Environment, Department of Fire and Rescue Services, Department of Housing and Community Development, Department of Public Works and Transportation, and the Office of the County Attorney.
- Chapter 7, **Complaint Handling**, reviews how DPS handles complaints from members of the public concerning sediment control, zoning, or other land use activities.
- Chapter 8, **Findings**, summarizes OLO's findings.
- Chapter 9, **Recommendations**, outlines OLO's recommendations.

² The scope of OLO's assignment did not include a technical audit of DPS' work or a comprehensive financial audit of the DPS Enterprise Fund.

1.2 Authority

Council Resolution 14-965, *FY 2002 Work Program of the Office of Legislative Oversight*, adopted July 24, 2001.

1.3 Methodology

OLO staff compiled information for this study through extensive interviews, observations, data analysis, and document reviews. OLO's resources included:

- Department of Permitting Services' documents including budget and performance data, and personal observations of departmental operations;
- Individual and group interviews with employees of the Department of Permitting Services and staff from other departments, including the Department of Environmental Protection, Department of Housing and Community Affairs, Department of Fire and Rescue Services, Department of Public Works and Transportation, Office of Management and Budget, Department of Finance, Office of the County Attorney, and Office of the County Council;
- Three years of data from surveys with DPS' permit applicants and DPS employees, and findings from focus groups with various stakeholders conducted by an independent consultant;
- Focus groups (conducted in the fall of 2001) with individuals who have registered complaints in recent years with DPS concerning either sediment control or an illegal land use;
- Discussions with representatives from the Advisory Boards of the Regional Services Centers, and individual interviews with other members of the community; and
- Legislative files of the County Council, staff memoranda, and previous reports.

1.4 Acknowledgements

OLO appreciates the high level of cooperation received from County Government staff. OLO especially thanks the Director and many staff members of the Department of Permitting Services, who took the time to answer our many questions and share insights into program operations. OLO also thanks representatives from the Department of Fire and Rescue Services, Department of Environmental Protection, Office of Management and Budget, Department of Housing and Community Affairs, Regional Services Centers, Department of Public Works and Transportation, Department of Finance, and Office of the County Attorney.

An essential component of this OLO study was to learn how individuals who interact with the Department of Permitting Services perceive the reorganization in general and the delivery of specific DPS services. OLO greatly appreciates the substantial time taken by individual County residents either to respond to a telephone survey, attend a focus group discussion, or sit down with OLO staff in an individual interview. OLO also owes tremendous thanks to management consultant Doug Katz from Wasserman/Katz for conducting our series of focus group discussions.

Finally, and perhaps most significantly from the Council's perspective, repealing DPS' sunset provision does not preclude the Council from continuing to press for improvements in specific program areas, or from exercising continued oversight of DPS performance.

OLO recommends the Council take a three-step approach to improving service delivery in selected DPS functions. First, credit the County Government for what is going well. Second, identify and prioritize what needs improvement. Third, ask the Chief Administrative Officer (CAO) to develop a performance improvement plan and report back by a specified date.

The first step enables the Council to place its requests for performance improvements within an appropriate context, that is, by first acknowledging the "good news" before pressing for additional improvements. OLO identifies the following three DPS functions as most in need of betterment:

- Responding to complaints about alleged zoning code violations;
- Enforcement of County and State standards for sediment control and stormwater management; and
- Reviewing plans and conducting inspections related to compliance with fire code safety standards.

The CAO's involvement in developing a performance plan is critical because of the inter-departmental nature of these issues. The Council should negotiate a date for the CAO's response that enables the Council to consider any fiscal aspects as part of the Council's final FY 03 operating budget action.

OLO recommends the Council also ask the Chief Administrative Officer to develop a strategic plan for DPS. The strategic plan should include target goals for future service delivery, a business plan, and a proposal for ongoing performance assessment and continuous improvement. Such a written document can provide the basis for a continued and constructive dialogue between the Council and Executive Branch about DPS' goals and ongoing performance.

OLO thanks Executive Branch staff for their high level of cooperation throughout the study period. An essential component of this OLO study was also to learn how individuals who interact with DPS rate the delivery of specific DPS services. OLO appreciates the substantial time taken by individual County residents either to respond to a telephone survey, attend a focus group discussion, or sit down with OLO staff in an individual interview.

CHAPTER 8: FINDINGS

Summary of Findings

The Department of Permitting Services (DPS) was created to be the "one-stop shop" for County functions related to regulating construction and land development activities. The County legislatively established the new DPS in 1996 by consolidating and restructuring programs from four existing departments.

During the past five years, the Department of Permitting Services has made substantial progress toward meeting the goals identified by the County Executive and County Council for the new Department. The major goals articulated for the new department were to:

- Streamline the permitting process to improve productivity;
- Provide faster, friendlier, more consistent service;
- Provide substantially fee-supported operations;
- Provide consistent, predictable code enforcement activities; and
- Maintain and ensure compliance with the County's regulatory standards.

There is ample good news in terms of positive changes made by DPS since 1996. Three years of reliable survey data show that permit applicants are generally favorable about their overall experiences with DPS. The processing time for many permits has been reduced. Permit applicants also give positive ratings to DPS employees on attributes such as friendliness, professionalism, teamwork, helpfulness, and customer respect.

On the fiscal front, the Department has achieved the goal of becoming a fee-supported operation. Today, the DPS-Enterprise Fund is in sound financial shape, and DPS has already made substantial repayments to the General Fund. However, it should not be missed that some permit applicants identify increased fees as an area of concern.

The major strategies identified as critical to accomplishing the goals of the Department (i.e., office space renovation, improved technology, staff reorganization) are now mostly in place. In addition, interviews with County staff evidence there are many ways that DPS staff have forged constructive working relationships with other departments.

The less positive news to report concerns: service delivery and coordination problems in several key DPS functions; the residual negative attitudes held by some DPS employees about their work environment; and the absence of a strategic plan. In addition, because of delays in completing some important changes, it is too soon to draw conclusions about the impact of the office renovations, staffing reorganization, and technology improvements on DPS' goals such as productivity, customer services, and consistency.

The rest of this chapter presents OLO's findings on specific issues. OLO's recommendations for Council action begin on page 121.

Finding #1: Permit applicants are generally favorable about the performance of the new Department.

Opinion survey research shows that a solid majority of permit applicants consistently registered positive perceptions of the Department's performance during the three survey years (1998, 1999, 2000). Permit applicants report that the permit process meets or exceeds their expectations in most areas.

In the fall of 2000, about two-thirds of the permit applicants surveyed rated their overall experience with DPS as *excellent* or *somewhat good*. Approximately half of those surveyed indicated their experience met their expectations, and approximately one-third indicated it exceeded their expectations. When comparing results among the three survey years, there were no statistically significant differences in permit applicants' ratings of their overall experience.

In all three survey years, at least six out of ten permit applicants surveyed rated DPS staff favorably on their friendliness, helpfulness, knowledge, professionalism, politeness, customer respect, teamwork, reliability, and ease of using the permitting office. Although not statistically significant in most cases, the ratings on these characteristics declined slightly between 1998 and 1999, but increased in 2000.

For some permit applicants, fees are consistently identified as an area of concern. Across the three survey years, respondents remained split among positive, neutral, and negative ratings. Specifically, in the fall of 2000, 36% of permit applicants said the fees were *excellent* or *somewhat good*; 35% said the fees were *neither good nor bad*, and 29% said the fees were *somewhat poor* or *bad*.

The permit applicants surveyed also rated the following aspects of their experience with DPS somewhat lower: staff's ability to eliminate bureaucratic red tape (45% favorable); the comfort of the waiting facilities (49% favorable); and time to complete the permitting process (55% favorable).

In the fall of 2000, 58% of the permit applicants surveyed rated the use of technology in the DPS process favorably. This represented a significant increase from the 46% favorable rating in 1999.

In the fall of 2000, 51% of permit applicants, who had completed a permitting process in another jurisdiction said that their experience in Montgomery County was *better* or *much better*, 26% said their experience was similar, and 23% said it was *worse* or *much worse*.

2001 Survey Data. As Chapter 4 indicates, DPS has retained a consultant to conduct a fourth year of telephone surveys with permit applicants, and fourth year of on-line surveys of DPS employees. DPS expects that these survey results will be available in January 2002. (See memo from the Chief Administrative Officer in Chapter 10, Executive Branch Comments.) Especially because of the many changes completed during the past 12 months, e.g., office renovation, staffing reorganization, automation improvement, this additional year of survey data is integral to gauging DPS' goal accomplishments, and to understanding the current attitudes of DPS employees.

Finding #2: DPS employees hold a mix of positive and negative views about their work environment and the performance of DPS.

With the Director's support, the Department of Permitting Services has invested in survey research that objectively measures the views of its employees. Three years of survey data indicate that DPS employees hold a mix of positive and negative views about their work environment and the performance of the Department. For example, the fall 2000 survey of DPS employees showed that of the responding employees:

- Approximately one-third rated the DPS reorganization as *successful* or *very successful*, one-third rated it *very unsuccessful* or *unsuccessful*, and one-third remained *not sure*.
- More than half (55%) rated their job *fulfilling* or *very fulfilling*, but almost half (46%) also rated the effectiveness of management/employee communication as *ineffective* or *very ineffective*.
- About half considered DPS' job/work environment *fair* or *very fair*. Two out of ten employees remained unsure, and a third rated the job/work environment as either *unfair* or *very unfair*.

Employees believe they are doing a good job. High percentages of DPS employees (80-90%) score themselves as friendly, polite, helpful, professional, respectful toward customers, efficient, timely, flexible, good at problem solving, and able to explain technical issues well. 70% or more rate themselves high on teamwork and knowledge levels; and 70% rate themselves positively on consistency with other employees.

In a number of areas, DPS employees anticipated that permit applicants would provide more negative responses than were actually given. For example, in the fall of 2000, only 39% of DPS employees thought that customers would rate their overall experience with DPS as either *excellent* or *somewhat good*. This is significantly lower than the 66% of the permit applicants surveyed who actually rated their overall experience with DPS in these positive categories.

On the other hand, when asked how the County's permitting process compares with other jurisdictions, 60% of DPS employees indicated in the fall of 2000 that they believed it was *much better* or *somewhat better*, while only 50% of permit applicants gave the County's permitting process such a positive review.

Last year, the report from the independent research consultant who conducted the surveys recommended that DPS take a number of actions to address the issues identified in the employee survey. The recommendations included additional training in communication and developing a communications plan using public relations or other marketing communications tools to improve attitude and satisfaction. As of this writing, these recommendations have not been implemented.

Finding #3: The Department of Permitting Services has become a substantially fee-supported operation. Although the Enterprise Fund is financially sound, some policy and longer-term operating issues are pending.

When the DPS Enterprise Fund was established, it was understood that General Fund support would be necessary in the form of start-up funding, on-going subsidies for waived fees, and large one-time projects e.g., building renovation, technology improvements. In addition, the Council agreed that the DPS Enterprise Fund would repay the General Fund in future years as the fund balance allowed.

The DPS-Enterprise Fund started to show a positive fund balance in FY 99, and has continued to generate net income each year. A cumulative amount of \$11.2 million in General Fund support was provided to the DPS-Enterprise Fund between FY 97 and FY 01. The DPS-Enterprise Fund repaid \$600K in FY 01; the FY 02 budget shows a payback to the General Fund of another \$6 million.

The DPS-Enterprise Fund was established administratively. Decisions on how the DPS-Enterprise Fund is allocated have been made through the annual budget process. There are no formal policy guidelines for the DPS-Enterprise Fund such as a target fund balance or a long-term business plan for setting fees to recover operating costs. The Department of Finance, the Office of Management and Budget, and the Department of Permitting Services share management responsibilities for the Enterprise Fund.

Increases in existing fees and the establishment of new fees have enabled DPS to become a substantially fee supported operations. For example, building permit fees are approximately 26% higher today than they were in FY 95, and sediment control and stormwater management fees are approximately 65% higher today than they were in FY 96. In addition, new fees were introduced for a number of activities, such as well and septic plan review and the special exception inspection program. The Department also introduced a 10% automation surcharge in FY 98 to help pay for the new computer system.

DPS is able to accurately track its sources of revenue but is unable to identify the costs of providing specific services. For example, the Department is not set up to calculate the staff and operating costs associated with issuing a building permit or investigating a sediment control complaint. For budgeting purposes, Departmental costs tend to be allocated across each division based on the number of workyears and estimated operating expenses.

Finding #4: Major changes approved in 1996 to facilitate the success of DPS were not completed until earlier this year. As a result, it is too soon to determine the impact of DPS' staff reorganization, building renovation, and/or enhanced technology on goals such as productivity, customer satisfaction, and consistency.

In 1996, the Executive proposed and the Council approved significant changes to DPS' staffing organization, office space, and computer system. The staffing and office space changes were not completed until earlier this year and the automation improvements are still not fully implemented. As a result, it is too soon to draw conclusions about the impact of these changes on the Department's longer-term goals to streamline the permitting process, and improve productivity, consistency, and customer service.

Staffing Reorganization. It took five years to implement the tasks outlined in DPS' staffing reorganization plan. DPS' new staffing and management structure was not in place until July 1, 2001. In sum, the purposes of the staffing reorganization were to:

- Align work activities into fewer organizational divisions;
- Compress job classifications into a smaller number of generic classes;
- Eliminate several layers of middle management;
- Introduce the caseworker management concept; and
- Delegate greater decision making-making authority to front-line employees.

Building Renovation Project. The purpose of the DPS building renovation was to create a comfortable and aesthetically pleasing work environment. The renovations also allow all of DPS staff and functions to co-exist in one central location.

Work on the renovations started in October 1998 and was completed in February 2001. The renovation project cost almost \$1.9 million. Although General Fund revenues initially funded the project, the DPS-Enterprise Fund is reimbursing the General Fund for the costs of the renovation.

Automation Project. Another key strategy for improving customer service was a proposal to fully automate permitting functions and related activities. This involved replacing a mainframe system that had been in place since the early 1980's.

In July 1998, the County entered into a \$7.3 million fixed price contract with Advanced Information Network Systems, Inc. (AINS) to develop and install an automated permit and licensing system. The project included four phases and has taken longer than anticipated to implement. Phase 1 was completed in September 2000, and Phase 2 is scheduled for release in November 2001. The contract has been extended (at no additional cost) to accommodate the delayed schedule. DPS anticipates that the final two phases will be completed by September 2002.

During FY 01, the County Council hired an independent consultant to review the progress of the DPS automation project. In a written report to the Council in November 2000, the consultant concluded that DPS' automation project plans were essentially sound and that, once implemented, the new system should adequately address DPS productivity, efficiency, and customer service needs. The consultant reported that the project got off to a "rocky start" and there have been "ongoing glitches," but also noted that this is not unexpected with implementation of a large system.

Finding #5: The County's handling of land use complaints does not adequately meet the core criteria for "effective complaint handling" in any subject area, that is, to be accessible, fair, consistent, efficient, and accountable. Public dissatisfaction with the land use enforcement function has a long history.

Before and since the 1996 reorganization, community members have voiced concerns with how the County Government responds to land use complaints. OLO believes this is because the County's handling of land use complaints does not adequately meet the core criteria of "effective complaint handling" in any subject area, that is, to be accessible, fair, consistent, efficient, and accountable.

During the course of this study, OLO heard more anecdotes about problems with land use enforcement than about any other function performed by the Department of Permitting Services. Interviews with individual complainants clarified that many of these concerns existed before and since the 1996 establishment of DPS.

OLO's interviews with complainants suggest that DPS' handling of land use complaints determines how some County residents judge the Department's overall effectiveness. This appears to be true, despite the fact that responding to complaints about land use violations represents only a relatively small portion of DPS' overall responsibilities. (In 2001, for example, responding to land use complaints represented less than 1% of the Department's total number of measured workload activities.)

The problems most frequently voiced by members of the community are listed below. It is difficult to sort the list into problems that existed before DPS was established, and those that may be linked to the 1996 reorganization. However, interviews with complainants suggest that dissatisfaction with the land use enforcement has a long history.

- Overall, the County Government does not place priority on the land use enforcement function. It is not given sufficient staff resources, visibility, or attention from senior County management.
- The County Government treats the needs of individuals who have land use complaints as secondary to the needs of the development community.
- The County's enforcement philosophy is too lenient, e.g., the County often allows an illegal land use to continue pending application for the needed permit, special exception, etc.
- The County's penalties are not severe enough, especially for repeat land use violations.
- The County does not respond quickly enough to land use complaints and fails to keep complainants informed about the status of the complaint investigation.
- The complaint handling process is not visible, i.e., the average resident does not know how to file a land use complaint and does not know what land use activities are illegal.
- There is inadequate coordination between zoning code enforcement and other departments, especially, for problem properties that require sustained attention or broad action.
- Zoning code inspectors do not have sufficient training and inspectors interpret the zoning code inconsistently.

OLO's observations of the complaint handling process independently substantiate some of the above concerns. For example, the Department lacks written guidelines for responding to land use complaints, and is only now in the process of establishing a strict accountability system for inspectors and other staff. It is the County's practice to generally allow an identified illegal land use to continue pending application of the needed permit, special exception, etc. It is also the County's practice to allow inspectors to work with violators to resolve illegal uses before automatically issuing written Notices of Violation, Stop Work Orders, or civil citations. Together, these practices may explain some complainants' observations that "the County is too lenient" and "the County allows an illegal use to continue."

While most complainants receive an initial response to their complaint within three days (and program data indicate this is increasingly the case), DPS records indicate that there are cases where a complainant hears no response from the County for three weeks or more. Similarly, while the greatest number of zoning complaints are resolved within one month, DPS records indicate that 20-30% take five or more months to be resolved.

OLO understands DPS is in the process of addressing some of the problems identified. In July, a new manager was appointed to oversee the handling of zoning code enforcement. The new manager has begun to develop performance targets and establish a strict accountability system for inspectors and other staff. The new manager is also in the process of assessing the adequacy of resources for performing the zoning code enforcement function. Related to this, the Council recently (September 2001) approved levying an additional fee (\$88/year) on special exception holders, with the additional revenue earmarked for two new special exception inspectors.

What does effective complaint handling look like and why is it so important?

When the County places priority on effective complaint handling, it sends several important messages to the community. An accessible complaint handling system indicates that the County wants open lines of communication with its residents. It provides the community with an opportunity to give the County feedback about its performance and provides the County with an opportunity to identify areas for possible changes in laws and procedures.

To be effective, a complaint handling system must promote trust. In order to be trusted by complainants and alleged violators, it must be accessible, fair, consistent, efficient, and accountable.

An effective complaint intake system is accessible to members of the public. A department promotes accessibility by providing clear information about the process, how to use it, and by establishing an intake system that is convenient and well publicized. Employees, complaints, and alleged violators should all have a common understanding of the procedures and time frames involved.

An effective complaint handling system is fair and consistent. A fair and consistent system promotes trust between the County and the public by handling similar cases in similar ways. For example, to be fair, the County must:

- Treat all complainants and alleged violators with respect;
- Conduct professional and thorough investigations;
- Scale its investigative efforts and related consequences to the severity of the alleged violation; and
- Adhere to transparent rules of procedures.

Effective complaint handling is also efficient. Complaints are acknowledged promptly (i.e., within 1-2 business days), and investigation conducted in a timely way (i.e., within 1-2 weeks). The County develops trust by keeping the complainant, alleged violator fully informed about the status of the complaint investigation until the case is resolved.

Accountability is an essential characteristic of an effective process. Accountability requires the County to have mechanisms for collecting and analyzing complaint-related data accurately. This enables the County to insure consistency in handling cases, as well as to identify trends and learn from the complaints where potential changes in law and/or procedures are needed. Accountability includes tracking the status of all complaint resolutions and making changes when analysis of the data indicates that change is warranted.

Finally, strong leadership, which includes articulating the County's overall policy toward land use enforcement, is critical to an effective complaint handling process.

Finding #6: The Department of Environmental Protection (DEP) Director has not needed to invoke the legal authority to suspend or revoke a DPS-issued permit. Some strategies to promote and maintain coordination between DPS and DEP are being implemented successfully.

The 1996 reorganization included the transfer of the Water Resources Unit from the Department of Environmental Protection (DEP) to the new Department of Permitting Services. DPS is now responsible for: plan review and inspection of sediment control systems; plan review flood plain studies; and plan review and inspection of stormwater management facilities until construction is complete and the site is no longer under a DPS-issued permit. DEP retained the responsibility to ensure that stormwater management facilities, no longer under an active DPS permit, comply with the County's environmental standards.

The legislative record indicates that several Councilmembers expressed concern about the transfer of these programs from DEP (where the primary focus is on environmental quality) to DPS, where the focus would be on development and construction. In particular, Councilmembers raised the possibility that transferring these programs could result in less stringent enforcement of the County's water quality standards.

To address these concerns, the County Executive promised a close working relationship between DEP and DPS. In addition, the Council amended the law to provide the DEP Director with the explicit authority to suspend, revoke or modify any permit issued by the DPS, which may have a detrimental impact on the county's water resources. This provides the DEP with the legal authority to oversee DPS' permitting activity from an environmental protection perspective.

According to the Director of DEP, it has not been necessary to invoke this authority. The reason for this appears to be that, in practice, some strategies to promote and maintain coordination between DPS and DEP have been implemented. Interviews with DPS and DEP staff evidence that the two departments have worked together to build a collaborative working relationship on a range of issues. For example, DEP staff have direct access to DPS' computer system, and DEP and DPS staff routinely consult on issues such as:

- The review and approval of Special Protection Area Water Quality Plans;
- Technical and environmental reviews of County CIP projects;
- Reviews of road crossing plans that impact streams; and
- Monitoring in environmentally sensitive areas in accordance with the Countywide Stream Protection Strategies.

A significant recent addition to the DPS/DEP working relationship is a DEP initiative to provide the DPS a form of "in-house quality control." DEP is doing this by monitoring randomly selected active development sites with DPS field inspectors to assess the effectiveness of on-site sediment control measures. Before the end of 2001, DEP plans to issue a report that contains the results of the Department's monitoring activity.³

Finding #7: Reviews by the Maryland Department of the Environment (MDE) continue to identify the need to improve the County's sediment control and stormwater management programs.

Sediment Control Reviews. The State reviews the County's sediment control enforcement program on a biennial basis. The past two reports (1998 and 2000) found that the County's program needs improvement. Specifically:

- In the fall of 1997, State reviewers inspected 42 sites and found 23 sites (55%) to be in violation of the approved plan. Upon re-inspection, the reviewers found that seven (17%) of the sites continued to be in violation.
- In the fall of 1999, State reviewers inspected 65 sites and found 41 sites (63%) to be in violation of the approved plan. Upon re-inspection, the reviewers found that fourteen (22%) of the sites continued to be in violation.

The Maryland Department of the Environment is currently conducting the agency's 2001 sediment control review and its report should be released in January 2002.⁴

³ OLO will incorporate the results of DEP's monitoring activity into the Council's worksessions on DPS in early 2002.

⁴ OLO will incorporate the results of MDE's current review into the Council's worksessions on DPS in early 2002.

Stormwater Management Reviews. The State most recently reviewed Montgomery County's stormwater management program in 1996-97. At that time, MDE's review found that:

- The County (DPS) conducts high quality and consistent reviews of stormwater management plans;
- In terms of stormwater management construction inspection and enforcement, the County (DPS) makes an adequate effort to ensure that stormwater management facility construction is in accordance with the approved plan; and
- The County (DEP) has made tremendous progress in addressing past inadequacies regarding the frequency of preventive maintenance inspections.

MDE's report also raised some concern over the high number of waivers issued by the County. The MDE plans to conduct its next review of the County's stormwater management program in 2003.

County Response. The County has made changes to respond to MDE's report and to increase on-site maintenance of sediment control measures by the development community. For example:

- As of July 1, 2000, the DPS began requiring compliance within 48 hours on Notice of Violations before a Stop Work Order would be issued on all development and building construction activity.
- The directors of DPS and DEP met with agency representatives from M-NCPPC, DPWT and MCPS to discuss the needed improvements of on-site sediment control for government entities that DPS regulates.
- DPS and DEP started conducted joint ride-alongs on a monthly basis to provide suggestions on program improvements and to evaluate sediment control effectiveness.

As of October 2001, the DPS had also implemented eight of the 12 recommendations for improvement that were identified by the Council-appointed Sediment Control Task Force.⁵

County concerns about MDE methodology. Executive branch staff raise questions regarding the methodology undertaken by the MDE in evaluating active development sites. According to DPS staff, if one minor violation is found the entire site is failed. For example, a site would fail if a bulldozer accidentally knocked over part of a sediment control barricade on the day of the evaluation.

With respect to the stormwater management review, DPS staff report that the number of waivers has been reduced since MDE's report. DPS staff also point out that, because the County's standards are stricter than the State's, the waivers granted under the County's standards still mean that the facility is in compliance with the State's Stormwater Management Standards.

⁵ See page 77 for a list of the Sediment Control Task Force's recommendations and the status of their implementation.

Finding #8: The inter-departmental process of conducting plan reviews and inspections related to fire safety standards evidence some ongoing coordination problems between DPS and the Department of Fire and Rescue Services.

The 1996 reorganization transferred the fire plan review functions from the Department of Fire and Rescue Services (DFRS) to the new Department of Permitting Services. DFRS inspectors retained the responsibility to conduct fire code field inspections.

In 1996 and subsequent years, Councilmembers received testimony that raised concerns about the transfer of the fire plan review function to the new Department of Permitting Services. The concerns have revolved around anticipated problems with coordination between the two departments (DPS and DFRS), inconsistent code interpretation, and a decrease in fire safety standards.

The split of functional responsibility between plan review and inspection meant that the two departments needed to develop and maintain a strong cooperative working relationship. Establishing the Joint Code Modification Committee and holding joint staff meetings are examples of how the DPS and DFRS staff are working well together. However, interviews and discussions with staff evidence some continuing problems with routine coordination between the fire plan review and field inspection functions.

The recurring issues identified as posing problems to more effective coordination include:

- Inspection scheduling systems that are not compatible;
- Perceived barriers to collaborative work ventures;
- Insufficient access and feedback mechanisms between DPS and DFRS;
- Lack of access to DPS' computer system; and
- Insufficient understanding of each other's needs and responsibilities.

Finding #9: The County has taken steps to improve the coordination between and among DPS, the Department of Housing and Community Affairs, and the Office of the County Attorney. Effective coordination is especially important for dealing with properties that involve multiple code violations that cross departmental lines of authority.

In practice, housing standards, property standards, and land use issues are often linked. The 1996 reorganization maintained the need to involve several departments in certain code enforcement situations, especially when a property has multiple violations that cross departmental lines of authority.

Complaints concerning a building or land use issue generally fall within the jurisdiction of either DPS or DHCA. Each department has specific code enforcement responsibilities and categories of complaint investigation. Specifically, DHCA handles and investigates complaints concerning accumulations of solid waste, overgrown vegetation, deteriorated structures, storage of inoperable and unlicensed vehicles on residential property and other public nuisances. DPS investigates complaints concerning illegal building activity and land use issues.

There is a clear need for effective coordination between DPS and DHCA. Although it represents only a small number of the County's total code enforcement workload, there are properties with multiple code violations that fall within the jurisdiction of both DPS and DHCA.⁶ In addition, residents sometimes contact DHCA with a complaint that falls within DPS' purview or vice versa.

In practice, coordination between DPS and DHCA occurs in a number of ways. Examples include telephone referrals between the two departments and joint on-site inspections. According to DHCA staff, the complaints that are referred to DPS remain on DHCA's complaint data base system. DHCA staff report that they monitor the status of the complaint on behalf of the citizen and provide feedback throughout the investigation process.

As part of the County's effort to strengthen its overall code enforcement efforts, a full-time Assistant County Attorney was assigned last year to the Department of Permitting Services. The Assistant County Attorney works with staff from both DPS and DHCA to better coordinate prosecution of code enforcement cases that involve multiple violations, which cross departmental lines. Interviews with staff suggest that these changes have improved the County's effectiveness in resolving some of the most challenging and complex code enforcement cases.

Finding #10: The transfer of the subdivision review and inspection functions from DPWT to DPS has not caused any significant problems.

The 1996 reorganization transferred subdivision review and inspection functions from the Department of Public Works and Transportation to the new Department of Permitting Services (DPS). Today, the subdivision development review staff are part of DPS' Division of Land Development. DPS staff take the lead role on :

- Coordinating the Executive Branch's reviews of the site plan approval process for land development;
- Coordinating and recording plat approvals;
- Coordinating and deciding all requests for waivers from the Road Code construction requirements;
- Reviewing and approving traffic control plans for tertiary and secondary roads;
- Reviewing and approving the construction drawings for all permitted construction within the County's rights-of-way and easements;
- Issuance and inspection of revocable permits in the ROW, driveway permits, grading permits, and storm drainage permits and paving permits; and
- Administering the County's Rural Rustic Road program.

The Department of Transportation (DPWT) still takes the lead role on all transportation policy issues. DPWT still plays a key role in the preliminary and subdivision construction plan approval stages and must sign off on each proposed record plat before its recordation.

⁶ See page 87 for examples of code violations that fall under both DPS and DHCA jurisdiction.
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Since the 1996, a good working relationship has developed between the two departments on subdivision review and related issues. Staff members from DPWT and DPS meet with one another one morning every two weeks to discuss and coordinate transportation-related issues of proposed subdivision plans. Based upon interviews with DPS and DPWT staff, it appears the two departments are effectively coordinating their responsibilities in upholding the County's road standards.

Finding #11: During the past five years, DPS staff have achieved a greater number of outputs with little change in the number of inputs.

Outputs or workload indicators are the products or results of an organization's key processes. The Department of Permitting Services' major outputs are permits and licenses issued, plan reviews and inspections conducted, and complaints received/investigated.

In FY 01, the breakdown of the almost 185,000 outputs of the Department was as follows:

- Building inspections (47%);
- Land development inspections (22%);
- Building plan reviews (16%);
- Building permit issuances (12%);
- Land development permit issuances (2%); and
- Land use complaints received (1%).

A review of DPS workload data over time shows that the County has experienced unprecedented building construction activity in recent years. There have also been shifts from year to year in the mix of permit issuance, review, and inspection activities undertaken by DPS staff.

When quantified at the department-wide level, DPS staff have achieved a greater number of total outputs with little change in the number of inputs (workyears). Using data from 1993 as a base year, DPS' productivity (calculated as a ratio of total outputs to total service workyears) was 18% higher in FY 01 than it was in FY 96. (The FY 96 data represent output and workyears associated with the same functions when these functions were based in four different departments.)

The amount of time it takes to conduct a plan review or issue an approved permit is an important measure of good customer service to many permit applicants. Data on processing times for residential walk through and commercial fast track projects for the five-year time period, 1995 through 1999 show that, completion times fluctuated during the five year period for both residential and construction projects.

The average time to issue permits in 1999 was significantly less than it was in 1995. The average completion time for projects fluctuated between 1995 and 1999, with the shortest completion times reported in 1997. Because the Department changed its intake procedures in 2000, the processing data for the most recent two years (2000 and 2001) are not easily comparable to the data compiled for the previous five years.

Caveat on completion time data. The data indicate that average project completion times (as measured by the time elapsed from the date of application to the date of final inspection) vary significantly. The time it takes to complete a construction project depends upon the builder, DPS, and other factors. For example, the length of time to build a house depends on variables such as: financing, labor availability, and weather conditions, as well as the time it takes for DPS to review plans and conduct inspections. Because of this dynamic, data on DPS workload and productivity data need to be understood within this context.

Finding #12: The Department of Permitting Services does not yet have a written strategic plan.

Although OLO understands that DPS staff intend to develop a strategic plan for the Department, such a document does not yet exist. As a result, there is not yet a written document that, for example:

- Establishes quantifiable goals for service delivery in the short-term and longer-term;
- Sets forth a business plan for the ongoing management of DPS as a substantially fee-supported department;
- Adopts a set of performance indicators that measure both the quantity and quality of key DPS activities; and
- Outlines a strategy for ongoing performance assessment and continuous improvement.

Chapter 9: Recommendations

This chapter presents OLO recommendations to the Council for action concerning:

- The Department of Permitting Services' legislatively established sunset date;
- Needed improvements in specific DPS functions; and
- Future monitoring of DPS' activities and performance.

As a package, these recommendations provide a framework for upcoming Council Committee and full Council worksessions on legislative and budget actions related to the Department of Permitting Services.

Recommendation #1: Repeal the sunset provision that is currently attached by law to the Department of Permitting Services.

OLO recommends that the Council amend the law (Section 5 of the 1996 Laws of Montgomery County, Chapter 20 as most recently amended by Chapter 14 of the 2001 Laws of Montgomery County) to repeal the Department of Permitting Services' sunset provision. OLO recommends this course of action because:

- The reasons for establishing a "one-stop shop" for County functions related to regulating construction and land development activities continue to exist;
- Since its creation in 1996, the Department of Permitting Services has made substantial progress towards meeting the goals identified by the County Executive and County Council for the new department; and
- Removing the sunset provision might actually improve service delivery. In particular, the continued uncertainty about the structural future of DPS reportedly has taken a negative toll on the morale of some DPS employees.

Finally and perhaps most significantly from the Council's perspective, removing DPS' statutory sunset provision does not preclude the Council from continuing to press for improvements in specific program areas, or from exercising continued oversight of DPS' performance.

Recommendation #2: Follow a three-step approach to accomplishing improved service delivery in selected DPS functions:

Step #1 - Credit the County Government for the positive changes made since 1996, and in particular for establishing a "one stop shop" for permitting services that receives overall positive ratings from permit applicants.

Step #2 - Articulate and set priorities on what is desired in terms of improved service delivery and bottom-line results in selected DPS functions.

Step #3 - Request the Chief Administrative Officer to return by a specified date with an action plan to accomplish the improvements identified by the Council.

Step #1. OLO recommends that the Council credit the County Government for the positive changes made by DPS since 1996. Three years of reliable survey data show that permit applicants are generally favorable about their overall experiences with DPS. This first step enables the Council to place its requests for performance improvements within an appropriate context, that is, by first formally acknowledging the abundance of "good news" before pressing for additional improvements.

Step #2. OLO recommends that the second step is for the Council to articulate and set priorities on what is desired in terms of improved service delivery and bottom line results in selected DPS functions. The chart on pages 125 and 126 presents OLO's recommendations for the three DPS functions areas that are most in need of improvement. The functions, listed in order of the priority in which OLO recommends they be addressed, are:

- Responding to complaints about alleged land use violations;
- Enforcement of County and State standards for sediment control and stormwater management; and
- Reviewing plans and conducting inspections related to compliance with fire code safety standards.

OLO's recommendations for desired results and suggestions for potential strategies to meet these results are included in the chart that begins on page 125.

Step #3. OLO recommends that the third step is for the Council to request the Chief Administrative Officer to develop a recommended plan of action for accomplishing improvements. The involvement of the CAO is especially important because of the inter-departmental nature of the issues that need to be addressed. The Council should negotiate a time frame for the CAO's response that enables the Council to consider any fiscal aspects of the CAO's plans as part of the Council's final action on the FY 03 operating budget.

OLO's comments on changes in bureaucratic location as part of the solution.

Some members of the community advocate changing the bureaucratic location of certain DPS functions as the solution to improving service delivery. In particular, the Council has heard public testimony and/or received correspondence that recommends:

- Transferring the responsibility of land use code enforcement from DPS to the Department of Housing and Community Affairs;
- Transferring the responsibilities for stormwater management and sediment control from DPS back to the Department of Environmental Protection; and
- Transferring the responsibilities of Life Safety Code and fire system plan review from DPS back to the Department of Fire and Rescue Services.

OLO's view is that effective (or ineffective) services can be delivered within different organizational structures. Bureaucratic location alone does not determine how well a function will or will not perform. Other factors, such as resource level, management and employee skills, protocols, and organizational culture, have as much if not more to do with the bottom line quality of service delivery. If the Chief Administrative Officer's plan for improvement includes a recommendation to change bureaucratic location, then the Council can appropriately evaluate the value of this proposal within the context of an entire performance improvement strategy.

Recommendation #3: Request the CAO to develop a strategic plan that can provide the framework for the Council's future monitoring of the Department of Permitting Services' performance.

To facilitate ongoing Council oversight of DPS activities, OLO recommends the Council ask the Chief Administrative Officer to develop a strategic plan for DPS that identifies short-term (2-4 years) and longer-term (5-10 years) goals for the department. Such a written document can provide the framework for continued dialogue between the Council and Executive Branch about DPS' goals and performance.

In particular, OLO recommends that the Council request the development of a DPS strategic plan that includes goals for service delivery, a business plan, and a strategy for ongoing performance assessment and continuous improvement. Specifically, it should include:

- A human resources plan that identifies staffing level, training and other workforce needs of the department. Within the next 12 months, the strategic plan should also include updating DPS' core staffing model.

- A business plan that sets forth policies for ongoing management of DPS as a substantially fee-supported department. The business plan should include, for example, a target level of retained earnings for the Enterprise Fund, a process for capturing and reporting on the costs of service delivery by program, and a process for regular review and revision of the fee schedule.
- A set of performance indicators that measure both the quantity and quality of key DPS activities. OLO recommends that Executive branch staff explicitly seek Councilmember input on this task so that a subset of these indicators can serve the dual purpose of periodic reporting back to the Council on DPS' performance.
- A multi-year plan of self-evaluation aimed at identifying the Department's ongoing strength and weaknesses, with a built-in process for continuous improvement.

OLO recommends that the Council applaud the Director of DPS for his support of survey research that objectively measures the views of DPS' permit applicants and DPS' employees. As discussed earlier in this report (see page 107), the survey results evidence the need to continue efforts aimed at improving employee attitudes toward their jobs and work environment. OLO suggests the Department's strategic plan incorporate the package of recommendations offered by the Market Research Group in the fall of 2000, which included:

- Launch and conduct staff/management communication training sessions;
- Conduct training seminars to help employees understand the needs of different DPS' customers;
- Consider an internal and external communications plan using public relations or other marketing communications tools to improve attitude and satisfaction; and
- Share research results with employees and involve them in the goal setting process to continue improving customer satisfaction levels.